



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

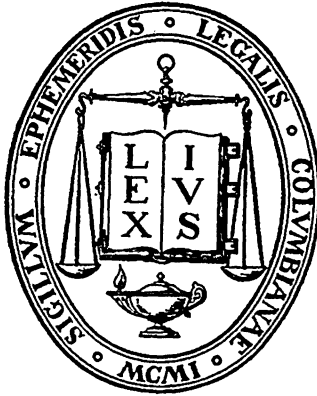
Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

COLUMBIA

LAW REVIEW

VOL. VIII—1908



NEW YORK
THE COLUMBIA UNIVERSITY PRESS
1908

COPYRIGHT, 1908



This volume is printed on acid free paper by
WILLIAM S. HEIN & CO., INC.

INDEX

TO

VOL. VIII—1908

TITLE INDEX TO ARTICLES.

	PAGE
ADMIRALTY LAW.....	Alfred C. Coxe. 172
ARISTOTLE ON LEGAL REDRESS.....	Paul Vinogradoff. 548
BANKRUPTCY UNDER THE ACT OF 1898, SOME NEW ASPECTS OF PARTNER- SHIP.....	Charles M. Hough. 599
BROKERS, RECOVERY IN NEW YORK OF INTEREST IN EXCESS OF SIX PER CENT. PAID BY, ON MONEY BORROWED TO PURCHASE AND CARRY STOCK ON MARGIN.....	Harold C. McCollom. 281
CANADIAN CONSTITUTION, THE.....	John S. Ewart. 27
COMMUTATION TICKETS AND RATE REGULATION....	Borden D. Whiting. 636
CONSPIRACY, THE TORT OF.....	Francis M. Burdick. 117
CORPORATE DIRECTOR, THE LIABILITY OF THE INACTIVE....	H. A. Cushing. 18
ELEVENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, THE	William D. Guthrie. 183
ETHICS, THE NEW AMERICAN CODE OF LEGAL.....	Simeon E. Baldwin. 541
INJUNCTION, THE PROPER USE OF THE WRIT OF....	Frederic W. Stevens. 561
INSURANCE LAW, THE EARLY HISTORY OF.....	W. R. Vance. 1
INTERNATIONAL LAW, THE DEVELOPMENT OF, BY THE SECOND HAGUE CONFERENCE.....	Edward G. Elliott. 96
JOINT STOCK LIMITED TRADING COMPANY, THE EVOLUTION OF THE ENGLISH.....	Frank Evans.
I.....	339
II.....	461
JURISPRUDENCE, MECHANICAL.....	Roscoe Pound. 605
LAND TITLE TRANSFERS, PROGRESS IN; THE NEW REGISTRATION LAW OF NEW YORK.....	Alfred G. Reeves. 438
LAW TEACHER, THE: HIS FUNCTIONS AND RESPONSIBILITIES. H. B. Hutchins.	362
LEGISLATIVE TENDENCIES, SOME RECENT.....	John Bell Sanborn. 384
LEGISLATION, THE METHODS AND CONDITIONS OF, IN OUR TIME. James Bryce.	157
MARKET OVERT, THE CHANGE OF THE PROPERTY IN GOODS BY SALE IN. J. G. Pease.	375
PERJURY, THE FREQUENCY OF.....	William A. Purrington. 67
PLEADING, THE THEORY OF A.....	Clark Butler Whittier. 523
RAILWAY VALUATION—IS IT A PANACEA?.....	Jackson E. Reynolds. 265
REMAINDERS, VESTED AND CONTINGENT.....	Albert Martin Kales. 245
SALES IN THE UNITED STATES, THE LAW OF.....	Richard Brown. 82
SHERMAN ANTI-MONOPOLY ACT AND PROPOSED AMENDMENTS, THE. Everett P. Wheeler.	452
WASTE, LIABILITY FOR.....	George W. Kirchwey.
I—AT COMMON LAW.....	425
II—THE MODERN ENGLISH DOCTRINE.....	624

INDEX OF SUBJECTS.

Numbers in *italics* refer to ARTICLES and BOOK REVIEWS, *heavy-faced type* to NOTES, *plain type* to RECENT DECISIONS.

ACCUMULATIONS.

- New York Real Property Law:
 Directions over, of accumulations on infant's death: whether invalid: whether invalidate primary directions. 299
 Disposition of, where undisposed, or direction invalid. 394, 417
 Person presumptively entitled to next eventual estate. 394
 "Sole Benefit": directions over on death of infant before or after majority. 298, 329
 Vesting of, at what time. 299

ADMINISTRATIVE LAW.

- See also *Mandamus, Quo Warranto*.
 Executive, status of in Canada. 30
 Officer of State, suits against, under Eleventh Amendment. 183

ADMIRALTY.

- See also *Maritime Liens*.
 Bringing in third parties not liable in admiralty. 648, 661
 Brokers' contracts, whether maritime. 136
 Charter parties, jurisdiction of. 136
 Charterer, liability for negligence of master or crew. 316
 Contribution, when granted. 499
 Equitable principles, application in admiralty. 499
 General Maritime law, acceptance of, by Supreme Court. 648
 Jurisdiction: contracts: charter parties: brokers' contracts. 136
 Equitable relief: cannot enlarge jurisdiction. 650
 General Maritime law as test of. 648
 Territorial: navigable waters. 45
 Torts. 499
 Maritime Codes, sources of. 177
 Pilots, liability of, to vessel for negligence. 407
 Regulation by Congress: when constitutional: regulation of interstate commerce distinguished. 45
 Repairs: lien for, in home port. 316
 Rule 59, Supreme Court: whether extends jurisdiction: joinder of parties not liable in admiralty. 649

- Study of. 172
 Supplies: lien for supplies furnished at owner's request. 316
 Torts: aids to navigation, injury to. 499
 Locality test. 499
 Negligence of pilots. 407

ADVERSE POSSESSION.

- Necessary to transfer property by lapse of time. 659

AGENCY.

- See also *Estoppel*.
 Adoption, distinguished from ratification. 661
 Corporation: when acts through agent or in chief. 403
 Corruption of agent, remedies for. 408
 Foreign Corporations, agent who may receive process for. 320
 Knowledge of agent, when notice to principal. 592
 Ratification: act ratified must have been done in behalf of principal. 49
 Adoption, distinguished. 661
 Tender by agent. 49
 "Unclean Hands" of agent, imputed to principal. 40

ANIMALS.

- Dogs, nature of property rights in. 147
Ferae Naturae, belong to state. 147
 Qualified right of individuals in. 147
 Wild Animals: liability of har-borer: common carrier. 224

APPEAL.

- New issues cannot be raised. 52
 Joint or several judgments determine rights of non-appealing parties. 591

ASSUMPSIT.

- See *Contracts, Quasi-Contracts*.

ATTACHMENT.

- Attaching creditor, when considered purchaser for value. 328
 Equitable protection of. 582
 Lien acquired by attaching creditor. 582

INDEX OF SUBJECTS.

v

Situs of debt, for purposes of attachment. 325
In Federal Courts. 58

ATTORNEY AND CLIENT.

Compensation: for advocacy: Attorney's and Barrister's, distinction between. 500
Civil Law, doctrine in. 500
Quantum meruit recovery, when allowed. 500
Contract of engagement of attorney, binds client's personal representatives. 226
Disbarment: for perjury. 50
Legal Ethics, New American Code of. 541
Lien of attorney: attorney for defense. 583
Misconduct of attorney, jurisdiction of courts over. 500
Nature of relation: independent of contract of engagement. 226
Termination of relation: by death. 226

BAILMENTS.

See also *Carriers, Innkeepers*.
Warehousemen: duties of warehousemen on transfer of receipt. 416
Delivery of receipt as transfer of property. 416

BANKRUPTCY.

Adverse claims under § 23b. 219, 661
Anticipatory breach, bankruptcy as. 306
Contingent claims, provability of. 305, 317
Directors of corporation, acts of bankruptcy by. 319
Exempt property: insurance policies. 224
Federal Bankruptcy Acts construed:
Act of 1841. 305
Act of 1867. 305, 392, 600
§ 36 392, 600
Act of 1898:
§ 1 (15) 392
§ 1 (19) 391, 392
§ 2 (1) 393
§ 5 599
§ 5a 391, 394, 599
§ 5b 394
§ 5c 393
§ 5f 394, 599, 604
§ 5h 393, 394
§ 8 583
§ 16 394
§ 23b 219

§ 32 393
§ 57 305
§ 63a 305
§ 63b 305
§ 67f 661
§ 70e 219
Insurance policies: exemption of: when pass to trustee. 224
Jurisdiction of Federal Courts: 219, 220, 661
Lunatics: adjudication of lunacy prior or subsequent to petition in petition in bankruptcy. 583
Replevin in State court, jurisdiction to set aside. 661
Summary jurisdiction. 219
Limitation, statutes of: when creditor may plead. 57
Lunatics: acts of bankruptcy: incapable of committing. 583
Jurisdiction over. 583
Partnership, bankruptcy of a, under Act of 1898. 391, 407, 599
Adjudication and administration of firm distinct from partners. 392, 602, 603
Discharge of partners. 393
Entity theory of partnership. 391, 600, 603
Preference: transfer of securities bought on margin not a preference. 488
And see *Pledges*.

BROKERS.

See also *Pledges*.
Margin transactions: nature of transactions: whether pledge or sale. 488, 510
Recovery of excessive interest by broker. 281

CARRIERS.

See also *Interstate Commerce, Public Service Companies*.
Commutation tickets: regulation by Interstate Commerce Commission. 636
Delegation of duties does not avoid carrier's liability. 136
Discrimination: allowance for private cars in apportionment to shippers. 592
Facilities, duty to supply adequate. 592
Independent contractor, when carrier is liable for acts of. 136
Licensees, duty of railroad to. 317
Limitation of liability: agreed value placed on shipment; recovery for partial loss. 501
Notice of damage by shipper. 407
Statute making limitation of li-

ability unlawful: constitutional-ity.	507	CONFLICT OF LAWS.
Mail clerks, liability of railroad for negligence of.	317	Appropriations upon interstate streams.
Notice of damage by shipper where liability is limited.	407	Concurrent jurisdiction over interstate waters.
Partial loss of shipment of agreed value: measure of recovery.	501	Death by wrongful Act, See <i>Death by Wrongful Act.</i>
Passenger: reciprocal duties of.	326	Debts, situs of.
Who is a passenger under New York Railroad Laws §104.	146	District of Columbia, laws of, are laws of United States, and <i>vice versa.</i>
Private cars, discrimination by means of.	592	Executors and Administrators: suit in foreign state.
Rate regulation: entire business to be considered in determining validity of rate.	501	Suit as trustee and for estate, distinguished.
Passenger rates: whether must give fair return in that branch of the carrier's business.	501	Death by wrongful act.
Respectful treatment, duty of:		Foreign law: effect of failure to plead.
In general.	147	When common law presumed.
Wilful acts of servants.	326, 658	Guardian and ward: status of foreign guardian.
Scalpers, liability for inducing breach of passenger's contract.	225	Judgments: foreign, when unenforceable: local policy.
Sleeping car company: duty to protect passenger and baggage.	326, 658	Sister state judgments: full faith and credit clause: local policy.
Status of.	326	
Wilful acts of servants, liability for.	326, 658	<i>Lex fori</i> : theory of adoption of <i>lex fori</i> where foreign law is not pleaded.
Special contract limiting liability: Notice of damage by shipper.	407	<i>Lex loci</i> : common law presumed.
Pleading: special contract must be alleged in defense.	407	Negotiable instruments: liability of drawer or indorser: conditions precedent to liability: demand, notice, protest.
Street railways: liability for refusing transfer under laws of New York, 1905, c. 737.	317	Necessity of act governed by <i>lex loci contractus.</i>
Taxation: valuation of intangible property.	328	Sufficiency of act governed by law of place where instrument is payable.
Tickets, non-transferable: conditions bind all.	225	Streams: appropriations on interstate streams.
Tort liability of carrier.	317, 326	
Transfer, liability of street railway for refusal of.	146	CONSPIRACY.
Valuation agreements of goods shipped.	501	Criminal Conspiracy: all conspirators principals.
Wild animals, carrier not bound to receive.	224	Tort of Conspiracy.
CHATTEL MORTGAGES.		
After acquired property:	307, 324	CONSTITUTIONAL LAW.
Acts sufficient to transfer title.	307	See also <i>Foreign Corporations, Interstate Commerce, Statutes.</i>
Equitable lien upon: its nature and extent.	308	Absentees, statutes providing for distribution of property of.
Fraudulent sales, when considered.	308	Centralization: remedy for conflict between states rights.
Power of sale in mortgagor: whether makes mortgage fraudulent as to creditors.	308	Class legislation.
		Corporations: reserved right to amend charter.
		Criminal enforcement of service contracts.
		Delegation of legislative functions.

- Distribution of powers: judicial and administrative functions. 225
- Due process:
 Absentees, statutes providing for distribution of property of. 501
 Adverse possession. 659
 Limitations, Statutes of. 658
 Statutes taking funds in court. 658, 661
- Eleventh Amendment: suits against the State. 184, 502
- Equal protection of the law. 137, 318, 408
- Extradition, warrant for, essentials of. 502
- Foreign Corporations, admission or exclusion of, on condition. 137, 506
- Fourteenth Amendment: mechanical interpretation. 615
- Fugitive from justice, who is. 502
- Full Faith and Credit clause: judgments of sister states: state policy. 569, 584
- Impairing obligation of contract:
 Corporations, reserved right to amend charters of. 137
 Foreign corporations:
 Conditions of admission or exclusion. 137
 Contract with State. 506
- Interstate Commerce clause: see *Interstate Commerce*.
- Jury, right of trial by:
 Diminished panel, verdict by. 577, 584
 Nature of guaranty. 577
 Waiver of, by accused. 577
- Liberty of Contract:
 Extent of guaranty. 301
 Limitation on power of Congress to regulate interstate commerce. 301
- Local self-government, right of. 507
- Municipal corporations: withdrawal of ordinance creating special fund. 590
- Peonage. 318
- Police power:
 Æsthetic considerations no ground for exercise of. 226
 Foreign corporations: conditions beyond contract of admission. 137
 Rate regulation by state. 317
 Suspension of. 39, 51
- Privileges and immunities guaranteed to citizens of sister states: 132, 137
- Include rights due to citizenship. 133
- Exclude: political rights. 133
 Rights attaching because of residence in particular locality. 133
 Statutory right of action granted only to citizens of state. 133, 134
- Discrimination, constitutional if reasonable. 133
- Search warrants for protection of private rights, unconstitutional. 408
- States Rights: remedies for conflict between: centralization. 519
- Suits against a State. 183, 502
- Supreme Court, United States: extension of jurisdiction. 510
- Service contracts, criminal enforcement. 318
- Statutes: effect of their possibility of becoming unreasonable. 317
- Thirteenth Amendment. 318
- CONTRACTS.**
 See also *Estoppel*, *Fraud*.
- Attorney and Client, contract between. 226
- Breach: when actionable in tort. 666
- Bankruptcy as anticipatory breach. 306
- Criminal enforcement. 318
- Commissions illegally obtained by agent: remedies. 408
- Consideration:
 Agreement not to sue on existing claim distinguished from agreement not to sue *in futuro*. 409
 Failure of, in ante-nuptial agreements. 140
- Foreign corporations: consideration for contract of admission. 137
- Illegal Contracts:
 Agent's agreement with third party for commissions. 408
 Agreements not to sue. 409
 Subordinate contract illegal: effect on primary contract. 408
- Mutuality. 226
- Offer and Acceptance:
 Acceptance: subscriptions to stock: sufficiency of. 48
 Offer: what constitutes. 409
 Subscription to stock of corporation not yet formed: revocability. 47
- Pari delictum*. 511
- Rescission, see *Rescission*.
- Special agreements:
 Limiting liability of carriers. 501
 Not to sue 409, 591

- Not to practice a profession: public policy. 586
 To buy as much as necessary. 227
 To support: reserved in deed, effect of. 234
 Statutes of Limitation:
 New promise, consideration for. 144
 Tender: can not be made by stranger. 49
- CONVERSION.**
 Conversion by plaintiff no defense to conversion by defendant. 148
- CONVERSION, EQUITABLE.**
 See *Equity*.
- COPYRIGHT.**
 Common law copyright. 54, 589
 See also *Literary Property*.
 Musical compositions: perforated records for automatic pianos not an infringement. 410
 Notice of: when necessary: original of painting, map, etc. 227
 Statutes, U. S. Rev. Stat. §4962. 227
- CORPORATIONS.**
 See also *Receivers*.
 Act in chief, power of corporation to: 403, 410
 Agency theory. 403
 Attributing will and acts of agent to corporation. 404
 Instrument theory. 404
 Adoption by: ratification distinguished. 661
 Alteration of corporate enterprise: stockholders' right to object. 52
 Amendment of charter:
 Estoppel, when created. 138
 Waiver of former *ultra vires* acts. 138
 Consolidation of similar corporations, when illegal. 138
 Debts, situs of. 58
 Directors:
 Assignment, power of, to make. 319
 Bankruptcy, when directors can commit act of. 319
 Implied power, acts within: statutes implying assent of stockholders. 319
 Inactive corporate director, liability of. 18
 Dissolution:
 Custodia legis, property in, in receivership proceedings. 213, 227
 Leaseholds, effect on. 410
 Real property, effect on. 222, 227
 Entity theory: 568
 Disregard of, in equity. 320, 321
 Fraud in corporate management, what amounts to. 314
 Holding companies: right to vote stock. 320
 Implied powers. 228
 Majority stockholders as trustees. 321
 Membership corporations: expulsion of member: review by courts. 503
 Minority Stockholders:
 Real parties in interest. 321
 Suit by: 313, 321
 Allegations necessary. 313
 Fraud in corporate management, what amounts to. 314
 Promoters, fiduciary relation of. 567, 584
 Liability to corporation. 567
 Liability to stockholders. 569
 Sales of stock, when fraudulent. 319
 Signature, essentials of. 661
 Stock Corporation Law, N. Y., 1892, c. 688 § 40. 138
 Subscriptions to Stock:
 Acceptance by corporation, what is sufficient. 48
 Nature of, to corporations not yet formed. 47, 52
 Revocation: theories of irrevocability. 47, 48
 Statutes governing, a part of contract. 52
 Unpaid: trust fund theory. 303
 Trust fund theory, present status of. 222, 303, 321
Ultra Vires acts:
 Condemnor acting *ultra vires*. 140
 Estoppel. 138
 Executed contracts. 228
 Ratification of. 138
- COUNTERCLAIM.**
 Breach of plaintiff's contract not to sue: whether can be set up in suit which caused the breach. 591
- COURTS.**
 Interpreter, when agent of witness. 229
 Judges, how affected by new American Code of Legal Ethics. 541
 Jurisdiction, see *Bankruptcy*, *Indians*, *Receivers*, etc.
 Soldiers. 52
 Members of Mutual Benefit Associations: power of courts to review expulsion. 503
 Peacemakers' Courts: Laws N. Y. 1822, Ch. 204 § 47. 146

INDEX OF SUBJECTS.

ix

- Physical examination, power to order. 233
 Review of orders of commissions. 225
- COVENANTS.**
- Covenants running with the land:
 When run at law: benefits and burdens. 122, 123
 Incumbrances, covenants against:
 Broken, when. 145
 Damages, measure of. 145
 Indemnity, sometimes construed as. 145
 Party walls, covenants for, see *Party Walls*.
- CRIMINAL LAW.**
- See also *Homicide, Perjury*.
 Administration of; policeman's testimony. 77
 Arrest, silence under: when an admission. 505
 Conviction, defined: distinguished from sentence. 584
 Estoppel:
 Application of, to criminal cases. 228
 Misapplied, how. 228
 Test of. 228
 Felony, prevention of, by third party. 411
 Injunction to restrain crime. 562
 Insanity: reduction of murder to second degree. 321
 Intent under penal statutes. 588
 Limitation, Statutes of: affirmative defense in New York. 52
 Prevention of Felony: duties of third party. 411
 Principal and accessory, test of. 139
 Self-defense: duty of assailed to retreat if at fault. 411
 Sentence, defined: conviction distinguished. 584
 Suspended sentence, effect of. 584
 Unborn infants, killing of: when criminal. 670
- DAMAGES.**
- Actual damage: when implied. 139
 Covenants against incumbrances. 145
 Exemplary damages:
 Theory of. 139
 When granted. 139
 Mental anguish in negligence cases: must be result of physical injury, not in contemplation thereof. 658
- Negligence cases:
 Direct consequences, defendant liable for. 656, 667
 Reasonable anticipation rule, criticized. 656
 Partial loss of shipment of agreed value. 501
 Subjacent support: subsidence of soil. 415
- DEATH BY WRONGFUL ACT.**
- Action for personal injuries:
 Survival of. 328
 Effect on wrongful death action. 328
 Generally. 311, 328
 Suit by personal representative:
 By representative of forum on foreign cause of action. 312
 By foreign representative: theories. 312
- DECEIT.**
- Fiduciary relation: representation otherwise innocent, fraudulent. 60
 Opinion and representation distinguished. 60
- DEEDS.**
- Delivery, effect of: where deed incomplete. 662
 Grantee's name omitted: subsequent insertion. 662
 Grantor's name omitted:
 Whether fatal. 59
 Mention in another part of will. 59
- DEPOSITS IN COURT.**
- Claimant's rights. 659
 Constitutionality of statutes transferring deposits to State. 659, 661
 English Chancery practice. 659
- DESCENT AND DISTRIBUTION.**
- Absentees:
 Letters of administration on estate, void. 501
 Statutory control: distribution cutting off absentees rights: constitutionality. 501
 Next of kin: take as tenants in common. 501
 Partnership realty:
 Heir of deceased partner, rights of. 208
 Widow's rights. 208
 Vesting of property in distributees: beneficial interest in personality is in distributees at moment of death, each taking *pro rata* share. 399

DISBARMENT.See *Attorney and Client.***DIVORCE.**See *Husband and Wife.***DOMESTIC RELATIONS.**See *Guardian and Ward, Husband and Wife, Infancy, Parent and Child.***DOMICILE.**See *Conflict of Laws.***DOWER.**See *Husband and Wife.***EASEMENTS.**See *Highways, Party Walls, Support, Right of.***Ancient Lights:**

Implied grant: when valid. 652

Implied reservation, invalid. 652

Exercise of, over another's land: depriving owner of control over his property. 148

Improper use, injunction for. 148

Prescription, easements by:

Effect of increased or diminished user for part of prescriptive period. 403

Increased burden as a test. 402

Nature of rights by, as determined by user. 401

"User," meaning of, in relation to rights by prescription. 401

Reasonable User:

Extent of doctrine. 56

Examination of: when unnecessary. 56

EJECTMENT.

Entry: when must be shown. 327

Subsequent lessee, ejectment by, against prior lessee holding over. 327

EMINENT DOMAIN.See *Constitutional Law, Highways.*

Actions: special proceedings. 140

Beautification of public square. 226

Condemnor: intent of: *ultra vires.* 140

Damages, measure of. 141

Improvements on another's land: value of: when lost. 140

Property already devoted to a public use: subsequent condemnation. 504

Statutory provisions, effect of neglect of. 140

EQUITY.See also *Chatel Mortgages, Estoppel, Injunction, Laches, Liens, Mis-**take, Specific Performance, Vendor and Purchaser.*

Aliens, protection of. 53

Attachment, equitable protection of. 582

Chancery, Court of: origin. 561

Conversion, equitable: partnership realty. 208

Diligence: favored by Equity. 214

Equality among creditors. 214

Fraudulent conveyance: setting aside, to aid attaching creditor. 582

Hardship: 40, 322

"Unclean hands" distinguished. 40

Levy, equitable: filing of bill to administer property for claimants. 214

Limitation, Statutes of: when creditor may plead. 57

"Unclean hands": 40, 54

Application of maxim. 40, 54

Agent's, imputed to principal. 40

Injury to another unnecessary. 237

Relation to subject matter of suit. 41

Unfair competition. 237

ESTOPPEL.

Criminal law, in. 224

Elements of. 233

Equitable estoppel against municipal corporations. 143

Misrepresentation and change of position. 228

Municipal corporations, estoppel against. 143

Mutual benefit associations: change of beneficiary: doctrine of estoppel criticised. 142

Ostensible ownership, estoppel by. 233

Silence, estoppel by. 143

Subscriptions to corporate stock: estoppel to deny offer. 48

EVIDENCE.

Access or non-access: testimony of, by husband or wife. 323

Admissions:

Former action or proceeding, evidence in, as admission. 131, 140

Statements of party against whom admission is to be used. 131

Statements of third parties: express and implied adoption. 131, 132

Interpreter, admissions through. 229

Partner, of a.
 During continuance of firm. 481
 After firm dissolution: conflicting views: admissions properly receivable. 481, 509
 Silence as an admission. 505
 Character: evidence of, based on personal knowledge. 221
 When provable by specific acts. 413
 Depositions. 663
 Dangerous tendency, proof of, by evidence of prior effect. 579, 587
 Eminent domain: evidence relevant to show damages. 141
 Former trial, admissibility of evidence in. 663
 Hearsay rule: interpreter, testimony through: evidence of. 230
 Identification of speaker over telephone or writer of letters, by familiarity with past transactions. 587
 Mechanical, tendency of evidence to become. 620
 New York Code Civ. Pro.
 § 829. 650, 663
 § 834. 141
 Personal transactions or communications with decedent under New York Code. 650, 663
 Extraneous fact, evidence of, when inadmissible. 651
 Policeman's testimony: criminal law. 77
 Presumptions:
 Nature. 127
 As evidence. 127, 141
 Prior effect, evidence of, to prove dangerous tendency. 579, 587
 Privileged communications: physician and patient: waiver, extent of. 141
 Profert of child, to prove resemblance. 586
 Repairs made after accident, evidence of. 663
 Reputation, evidence of. 221
Res gestæ: self-serving claims of title: See *Evidence, Verbal Acts*.
 Silence as admission of guilt. 505
 Telephone conversations. 587
 Verbal acts: self-serving claims of title: 43, 54
 Must be synchronous with physical conduct. 43
 Equivocality of conduct, whether essential. 44
EXECUTORS AND ADMINISTRATORS.
 Assets:
 Necessary for grant of adminis-

tration, except in domicile of deceased. 312
 Existence of otherwise unenforceable claim sufficient. 312
 Suit in foreign state: suit as trustee and for estate distinguished: death by wrongful act. 312

EXECUTORY DEVICES.

See *Future Estates*.

FELLOW SERVANTS.

See *Master and Servant*.

FOREIGN CORPORATIONS.

Admission: conditions imposed: validity and effect. 137
 Estoppel, failure to comply with regulations as, criticised. 228
 License to do business: when revocable. 506
 Service of process:
 Agents who may be served. 320
 Provision for, a condition of admission. 320

FRAUD.

Corporations, in management of: what amounts to. 314
 Promoters. 567
 Insurance: effect of fraud on right to recover premiums. 665

FRAUDULENT CONVEYANCES AND SALES.

See *Chattel Mortgages*.

FUTURE ESTATES.

Alienability of, at common law. 250
 Alternative limitations. 647
 "Contingent," meaning of, in feudal law. 247
 Contingent Remainders Act of 1845. 257
 Executory devises: repugnancy: after a fee with power to dispose free from limitation. 397
 Perpetuities, Rule against: must apply when contingent remainders become executory interests by operation of statute. 258
 Remainderman: absence of seisin. 245
 Remainders:
 Interests properly termed. 245
 Validity of, after life estate with power of disposal. 397
 Vested and Contingent: fundamental distinction. 248
 Rule that gift is to be construed as remainder if can take effect as such: present status of rule in England. 646, 669

Gifts to a class with words "before or after."	646	HOMICIDE.	
Alternative limitations.	647	Conspiracy to commit: who is a principal.	139
Rule that there can be no remainder after a vested remainder in fee.	261	Involuntary manslaughter.	228
Seisin, absence of, in remainderman:	245	Justifiable homicide.	411
Abeysance of the fee: when not objectionable.	249	HUSBAND AND WIFE.	
"Vested": meaning of term in feudal law.	247	Access or non-access: testimony by husband or wife.	323
Vested remainders to trustees to preserve contingent remainders.	254	Alienation of affection:	
GARNISHMENT.		Parent's liability: advice presumed <i>bona fide</i> .	585
Federal Courts: <i>situs</i> of debt.	58	Wife's right to sue.	585
Property subject to: under Georgia Code.	55	Ante-nuptial agreement:	
GOVERNMENT.		Enforcible, when.	140
Bills: when become laws: revocation of governor's signature.	51	Failure of consideration, effect of.	140
Canada: autonomy of.	27	Nature.	140
Congress: abuse of power by Speaker.	150	Cohabitation: presumption of marriage.	503
Legislation:		Common law marriage.	503
Methods and conditions.	157	Devise to wife, with estate over upon remarriage: effect of conveyance and reconveyance of property.	330
Modern tendencies.	384	Divorce: conditional decree.	585
Remedy for mechanical jurisprudence.	621	Dower: partnership realty.	208
GUARDIAN AND WARD.		Earnings of wife, husband's right to.	504
Guardian:		Marriage: parental consent.	585
Foreign guardian: status.	664	Married woman as partner.	590
Jurisdiction to appoint guardian.	664	Married Woman's Acts.	504
HABEAS CORPUS.		Parental assent to marriage.	585
Severity of sentence, no ground for writ.	52	Policy on husband's life: right of wife's administrator.	411
HIGHWAYS AND STREETS.		Services of wife, husband's right to.	504
Abutting owners:		Survivorship, husband's right of.	411
Rights in use of street.	144	INDEPENDENT CONTRACTOR.	
Fee of highway in abutter:		Carrier: when liable for acts of independent contractor.	136
Additional servitudes.	575, 587	Municipal Corporations: liable for act of independent contractor in streets.	666
Incidental benefits.	576	INDIANS.	
Lateral support for improvements in street.	593	Peacemaker's courts.	145
Municipal Corporations:		State courts, jurisdiction.	145
Power of, to control, subject to review.	144	Status of, in New York.	145
Title of, in streets.	143	INFANCY.	
Non-abutter: right to recover for obstructions.	664	Heedlessness, wilful, of child.	224
Obstructions: recovery for, by non-abutter.	664	Marriage:	
Uses of, where fee is in abutting owner: railways, sewers, watermain, etc.	575, 587	Effect of disability.	585
		Parental assent.	585
		Unborn infants, rights of.	670
		INJUNCTION.	
		Execution, compared with.	564
		History of.	561

Interlocutory: 564
 Safeguards in use of. 565
 Irreparable injury, injunction to re-
 strain. 562
 Origin. 563
 Preliminary injunction: whether
 power to issue, should be lim-
 ited. 205
 Public, injunction for protection of.
 53
 State officers, injunction against.
 183, 502
 Treaty, issuance in furtherance of,
 and for protection of aliens. 53
 Use of: 566
 To restrain crime. 562

INNKEEPERS.

Guests, who are: guest and boarder
 distinguished. 230
 Rate, fixing of: guest and boarder
 distinguished. 230
 Respectful treatment, duty of:
 whether extended to innkeep-
 ers. 147

INSANITY.

See *Bankruptcy*.

INSURANCE.

See also *Mutual Benefit Associations*.
 Conditions: "immediate notice,"
 construed. 142
 Development of; in England. 11
 Illegality: encouragement of acts
 in violation of law: erection of
 nuisance. 506
 History of. 1
 Insurable interest:
 Nuisance. 506
 Transfer of. 664
 Life Insurance Policies as assets of
 bankrupt. 224
 Married woman's policy on husband's
 life: right of wife's administra-
 tors. 411
 Policy, delivery of, after accident.
 142
 Premiums, right to return of: ef-
 fect of fraud. 665
 Repudiation by insurer: damages.
 230
 Rescission of insurance contracts:
 restoration of *status quo*.
 123, 138
 See also *Rescission*.
 Standard Policy presumed, where
 no policy issued or delivered.
 142
 Suicide:
 Effect of, on recovery. 587
 Clause providing for forfeiture
 by suicide while sane or in-
 sane. 587

INTERFERENCE WITH CON- TRACTUAL RELATIONS.

Competition as justification. 497
 Contracts terminable at will. 496
 Contracts unenforceable under Stat-
 ute of Frauds. 497
 Course of dealing. 496
 Fraud: when necessary. 225, 497
 Inducing breach of contract.
 225, 496
 Justification. 497
 Malice: whether an element.
 225, 496

INTERNATIONAL LAW.

Arbitration, court of international,
 established by Hague Confer-
 ence. 98
 Concurrent jurisdiction: inter-
 state streams. 584
 Development of: Second Hague
 Conference. 96
 Hague Conference: review of con-
 ventions of Second Confer-
 ence. 99
 Neutrals, rights and duties of, reg-
 ulated by Second Hague Con-
 ference. 105
 Prize Court, International. 113

INTERSTATE COMMERCE.

See also *Carriers, Public Service
 Companies*.
 Commutation Tickets: regulation by
 Interstate Commerce Commis-
 sion. 636
 Congress, power of, to regulate:
 301, 317
 Limited by right of freedom of
 contract. 301
 Navigable waters. 44, 50
 Other constitutional limitations.
 302
 What amounts to regulation of
 Interstate Commerce. 507, 301
 Criminal intent under Interstate
 Commerce Acts. 588
 Discrimination: private cars. 592
 Hepburn Act: power of commis-
 sion. 638
 License fees. 665
 Limitation of liability, statutes for-
 bidding: constitutionality. 507
 Navigable waters, regulation of,
 under Interstate Commerce
 Clause. 44
 Private Cars: discrimination by
 means of. 592
 Rate Regulation:
 Car-load shipments. 642
 Commutation tickets. 636
 Cost of Service, bearing of. 642

Separation of interstate and intra-state commerce.	270
Tendency to extend Federal power over intrastate commerce.	273
Sherman Anti-monopoly Act:	
Amendments proposed: constitutionality.	456
Combination of laborers.	413
Construction of.	453
Evils aimed at.	452
Tests to determine application.	413
Treble damages.	454
Taxation of gross receipts of railroad doing interstate and intrastate business.	665

JOINT STOCK COMPANIES.

Bonds of, exempting shareholders' liability: negotiability.	216
Evolution of, in England.	337, 461
Nature: partnership or entity: effect of legislation.	215

JUDGMENTS.

Conditional decree.	585
Joint or several, determining rights of non-appealing parties.	591

JURISPRUDENCE.

Codification: law and custom:	515
Custom, relation of, to law.	515
German Code, merits of.	613
Judicial law-making.	614
Legal Redress, Aristotle on.	548
Legislation:	
Methods and conditions of, in our time.	157
Remedy for mechanical jurisprudence.	621
Mechanical Jurisprudence:	
Defined.	607
Instances of.	608
Roman law: an example of Mechanical Jurisprudence.	607
Scientific Law:	
Defined.	605
Effect of, on courts.	606
Tendency to become mechanical.	—

JURY.

Right of Trial by: nature of guaranty.	577
Verdict by diminished panel: consent of accused.	577, 584
Waiver of right to trial by jury.	577

LABOR UNIONS.

"Open Shop," strikes against.	588
Strike to maintain Union rules for settling disputes.	588
Sympathetic strike to support individual grievance.	588

LACHES.

Municipal corporations: when barred by laches.	414
Negligence and change of position in quasi-contractual actions, distinguished.	405

LANDLORD AND TENANT.

See also *Waste*.

Assignment of lease: what constitutes: sub-lease distinguished.	143
Damages, measure of, for injury to premises.	143
Eviction:	
Constructive.	55
Test of.	143
Holding over: rights of subsequent lessee.	323
Injury to premises: when tenant can sue.	143
Leases:	
Assignment and sub-lease distinguished.	143
Trustee's power to lease for term beyond life estate.	
See <i>Trusts, Trustee</i> .	
Quiet enjoyment, covenant for.	143
Repairs: duty to repair.	666
Agreement to repair: tort action not maintainable.	666
Taxes: liability of landlord.	512

LIBEL AND SLANDER.

Privilege.	49
------------	----

LIENS.

See also <i>Chattel Mortgages, Equity, Maritime Liens, Mechanics' Liens, Vendor and Purchaser</i> .	
Attachment: when creates lien.	582
Party walls, enforcement of covenants for, by equitable lien.	122

LIFE ESTATES.

Modern Statutes: liberal construction of.	330
---	-----

LIMITATION OF ACTIONS.

Acknowledgment of debt.	144
Collateral use to impeach an obligation.	57
Criminal law: when Statute must be pleaded: New York Code of Criminal Procedure.	52
Deposits in Court, statute transferring, to State: distinguished from Statutes of Limitation.	659
Disability, time of: not part of time limited: N. Y. Code Civ. Pro. § 375.	415
Payment:	
General payment distinguished from unequivocal acknowledgment.	51

- Part payment lifts statutory bar. 51
 Undirected payment: application of, to barred debt. 51
 Running of, when begins. 145
 State, Statute does not run against. 143
 Theories of. 658
 Third parties: when can take advantage of statute. 57
 Trusts: statute only runs after repudiation by trustee, brought to cestui's knowledge. 659

LITERARY PROPERTY.

- Accession, literary. 589
 Common law copyright. 54
 Dramatic compositions. 589
 Letters, unpublished. 54
 Manuscript, unpublished. 54, 589
 Reasonable use, not an infringement. 54

MALICIOUS PROSECUTION.

- Actual damage required. 139

MANDAMUS.

- Title to office, not directly or collaterally determinable by mandamus. 49

MARITIME LIENS.

- Pilots: lien for damages occasioned by negligence of. 407
 Repairs, lien for. 316
 Statutory liens. 316

MARRIAGE.

See *Husband and Wife*.

MASTER AND SERVANT.

See also *Carriers*.

- Retention of improper servant: constructive eviction of tenant. 55
 Servant's torts: master's liability for. 231
 Wilful torts. 231
 Servant's helper, torts of: master's liability. 589

MECHANICS' LIENS.

- Fund available for lienholders. 235
 "Improvement" within New York Statute: portable machinery. 416
 New York and Pennsylvania systems of protecting mechanics. 235

MILITARY AFFAIRS.

- Jurisdiction of civil courts in time of peace. 52
 Interference with military duties no defense to punishment of soldier. 52

MISTAKE.

- Benefits conferred on defendant under mistake. 655
 See also *Quasi Contracts*.
 Fact, mistake of: negligence and change of position as affecting recovery. 404, 415
 Mere negligence no bar. 404
 Irrevocable change of position. 404
 Laches and estoppel distinguished. 404
 Law, mistake of: equitable relief: Mutual mistake: 484, 505
 Compromises and family settlements. 484
 Antecedent rights, mistake of. 485
 Legal force of language used, mistake of. 484
 Unilateral mistake: 211, 209
 In what cases relief is granted. 211
 Presence of other equities essential. 212
 Law, mistake of: quasi-contractual relief: Municipal corporation: right of, to recover. 508

MONEY PAID.

MONEY RECEIVED.

See *Mistake, Quasi Contracts*.

MONOPOLIES.

- Labor, combinations of, under Sherman Act. 413
 New York Anti-Monopoly Act, Laws N. Y. 1896, c. 383. 138
 Sherman Anti-Monopoly Act: see *Interstate Commerce*.

MORTGAGES.

- See also *Chattel Mortgages*.
 Default: lawful possession by mortgagee after, in New York: 486, 507
 Acquisition of possession. 486
 Change in character of possession. 488
 Equitable mortgage: vendor's lien reserved. 234
 Mortgagee's interest: nature of, after default, in New York. 486

MUNICIPAL CORPORATIONS.

- See also *Highways and Streets*.
 Assessments, special: improvement of realty: street sprinkling. 56
 Buildings: liability for negligence in management of. 232

- Contracts: constitutionality: suspension of police power. 39, 51
 Estoppel against. 143
 Independent contractors, when liable for acts of. 666
 Laches: whether municipal corporations is barred. 414
 Local self-government: constitutional right of. 507
 Mistake of law: recovery allowed for payment under. 508
 Ordinance, violation of: soldier not exempt from punishment. 52
 Patented article, contracts for: validity. 231
 Police Power, suspension of. 39, 51
 Special fund authorized for improvements: liability out of general funds where special fund not provided. 590
 Streets: duty to keep in safe condition not delegable. 666
 Suspension of Police Power. 39, 51
 Tort liability: in what cases municipality exercises public functions. 232
 Water works: exemption from taxation. 414
- MUTUAL BENEFIT ASSOCIATIONS.**
 Beneficiary: analogous to legatee, when. 142
 Change of. 142
 By-laws: amendments: limitations upon power to amend. 494, 506
 Expulsion of member: when reviewable by courts. 503
 History of. 3
 Membership certificate: analogous to will. 142
- NEGLIGENCE.**
 Contributory negligence: no bar to recovery by passenger for wilful acts of carrier's servants. 326, 658
 Damages in negligence cases:
 Direct results of injury the proper test. 656, 667
 Reasonable anticipation test criticised. 657
 Waters and water courses: liability for pollution not based on negligence. 330
 Wild animals, harboring of: presumption of negligence. 224
- NEGOTIABLE INSTRUMENTS.**
 See also *Conflict of Laws*.
 Acceptance:
 Time allowed drawee to accept. 508
 Retention, as acceptance. 508
Bona fide holder:
 State bank, when so considered: usurious instruments. 235
 Notice to refute good faith: sufficiency. 232
 Bonds: negotiability of joint stock association bonds exempting shareholders' liability. 215, 233
 Drawee, must know handwriting of drawer: applies only to protect holder in due course. 656
 Extension of time of payment, agreement for:
 Consideration. 323
 Effect on negotiability. 667
 General credit of maker: exemption of shareholder's liability in corporation or joint stock company's paper. 216
 Negotiable Instruments Law:
 § 220. 508
 § 225. 508
 Retention of instrument construed as acceptance. 508
 Usurious instruments: state bank as *bona fide* holder. 235
- NUISANCE.**
 Constructive eviction: maintenance of nuisance. 55
 Physical discomfort essential. 226
 Property in a nuisance. 506
 Reasonable user, doctrine of. 56
 Wild animals, nuisance *per se*. 224
- OFFICERS.**
 See *Mandamus, Quo Warranto*.
- PARENT AND CHILD.**
 Legitimacy: access of parents: testimony inadmissible. 321
- PARTNERSHIP.**
 See also *Joint Stock Associations*.
 Admissions of a partner: see *Evidence*.
 Bankruptcy of: see *Bankruptcy*.
 Deceased partners:
 Heir, rights of. 208, 233
 Personal representative, rights of. 509
 Good will of a partnership as assets: rule for measuring value. 56
 Married woman as partner. 590
 Nature: entity theory under Federal Bankruptcy Act of 1898. 391, 600, 603
 Partnership relation:
 How created. 668
 Who is a partner: distinguished from creditor: participation in profits. 668

- Realty of firm:
 Conversion into personalty. 208
 Dower of deceased partner's wife. 208, 210
 Heir, rights of, of deceased partner. 208, 233
 Surviving partner: title to personalty. 509
- PARTY WALLS.**
- Covenants for: whether run with land: 121, 145
 Benefits. 122
 Burdens. 123
 Equitable lien theory. 122
 Ownership of. 121
- PATENTS.**
- Jurisdiction of Federal and State courts. 324
 Municipal corporations: contract for patented article: when void. 231
- PERJURY.**
- Codes of Procedure, fertile source of. 73
 Disbarment: perjury, cause for. 50
 Frequency of. 67
 Oath, sanction of. 69
 Proof of, difficulty in. 78
- PERPETUITIES, RULE AGAINST.**
- See also *Restraints on Alienation*.
 Limitations of separate estates in New York. 418
- PERSONAL PROPERTY.**
- See also *Shelley's Case, Rule in*.
 Alienation, suspension of power of. 329
 Choses in action as property. 55
 Dogs, property in. 147
Ferae Naturae. 147
 Self-help: destruction of another's property to save one's own. 414
 Suspension of power of alienation. 329
 Transfer of title without delivery. 86
- PHYSICIANS.**
- Compensation of physician:
 Honorarium presumed at common law except as to surgeons. 58
 Honorarium abolished by statute. 58
 Privileged communications between physician and patient: waiver: extent of. 141
- PLEADING AND PRACTICE.**
- See also *Appeal, Attachment, Conversion, Counterclaim, Ejectment, Replevin, Waste*.
- Affidavits required by Codes: source of perjury. 73
 Appeal: nature of judgment, i. e., joint or several, determines rights of non-appealing parties. 591
 Cause of action: see *Theory of a Pleading*.
 Complaint:
 Necessity for definite theory. 523
 Sounding in tort or contract. 326
 Defense: must adhere to theory of pleading. 534
 Error, writ of, from United States Supreme Court to State Court. 510
 Cross-bills: federal jurisdiction. 57
 Form of action at common law: distinguished from change in theory of action. 524
 Injunction: improper joinder of causes of action. 510
 Insanity as affirmative defense. 321
 Joinder: causes of action. 510
 Parties. 510
 Judgments: joint or several. 591
 Jury trial: effect of equitable defense on right of. 668
 Multifariousness. 510
 New York Code: change in theory of action: 529
 § 375. 415
 Personal injuries: survival of action for. 328
 Physical examination of parties. 233
 Pleading, theory of a: 523
 Change in: distinguished from variance. 524
 Change in, in equity. 525
 Codes, changes: 523
 Under N. Y. Code. 529
 Procedure, tendency of, to become mechanical. 617
 Variance, distinguished from change in theory of action. 524
- PLEDGES.**
- Confusion of property pledged. 488
 Margin transactions: nature. 488, 510
 Repledge. 488
- POWERS.**
- Appointed powers as equitable assets: origin and criticism of doctrine. 653
 Donee's interest in property subject to general beneficial power. 652
 Nature of: not property, but may give donee incidents of ownership in property subject to power. 652, 669

- Statutory modification:
 England. 653
 New York Real Prop. Law §§ 129-133. 653
 Effect of, upon donee's interest in property subject to a power. 654
- PREFERENCE.**
 See *Bankruptcy*.
- PROXIMATE CAUSE.**
 Reasonable anticipation to prove actionable negligence, and as rule of damages, distinguished. 656
- PRESCRIPTION.**
 See *Easements*.
- PUBLIC SERVICE COMPANIES.**
 See also *Carriers, Interstate Commerce*.
 Discrimination between producer and consumer. 318
 Franchise:
 Construed strictly: nothing passes by implication. 148
 Valuation of. 218
 Producer and consumer: discrimination between: legislative policy. 318
 Rate regulation: legislative and judicial functions distinguished. 317
 See also *Interstate Commerce*.
 Respectful treatment: duty of telegraph company. 147
 Valuation of property under condemnation proceedings or sale to State or municipality: 217, 234
 Methods of Computation. 217
 Franchise. 218
- QUASI CONTRACTS.**
 See also *Mistake*.
 Benefits conferred upon defendant: 654, 669
 Mistake of plaintiff. 655
 Remoteness. 656
 Change of position, in actions for recovery of money paid: bars recovery unless due to defendant's negligence. 405
 Compulsion: when payment is under. 592
 Debts of third party, payment of, to protect one's property from legal claims. 592
 Drawee must know handwriting of drawer, rule that, applies only to protect holder in due course. 656
 Gratuitous benefits. 654
- Mistake, recovery for: see *Mistake*.
 Money paid to third party and used by him for defendant's benefit. 655
 Money received:
 By defendant from plaintiff's debtor: 125, 145
 Basis of action. 125, 126
 Where defendant received money claiming in his own right. 126
 "Money": credit on account, when equivalent to: transfer of bank account. 127
 Nature of action: existence of other remedies not necessarily a bar. 125
 Negligence of plaintiff in actions for money paid by mistake: mere negligence no bar. 404
 Official acts: no recovery. 58, 654
 Physician's acts in emergency, not officious. 58
Par delictum: when not a bar to recovery. 511
 Voluntary payments; what are so considered. 654
 Waiver of tort: 125, 144
 Tort barred, quasi-contract maintainable. 144
 True ground of recovery: equity and justice: tort an accidental circumstance. 125
- QUO WARRANTO.**
 Title to office, proper remedy to determine. 49
- REAL PROPERTY.**
 See also *Covenants, Deeds, Easements, Future Estates, Highways and Streets, Party Walls, Perpetuities, Powers, Shelley's Case, Rule in, Support, Right of, Waters and Watercourses, Waste*.
 Conditions: devise to wife and on remarriage to children. 330
 Feudal view of interest in real property where no seisin. 247
 Freeholds: interests limited after terms. 245
 Improvements, on another's land: when lost. 140
 Recording acts:
 Early attempts to pass. 438
 Defects. 440
 Nature and extent. 440
 Re-entry, right of. 143, 327
 Registration of title:
 Early history in Europe. 443
 Torrens system. 444
 Reverter: property of corporation after dissolution. 222, 410

Torrens system of land registration:
 European system compared. 445
 History of, in United States. 445
 New York, Laws 1908, ch. 444. 447
 Procedure under. 444

RECEIVERS.

Accounting of:
 Adjudication on, effect of. 234
 Necessary to fix sureties' liability. 234
 Federal and State Courts: jurisdiction to appoint; when concurrent. 327
 Jurisdiction to appoint. 327
 Receivers' contracts of sale: nature: not true contracts. 46, 47
 Relation of, to court and insolvent. 46
 Sales by: nature of: judicial means of transferring interest in property. 47
 Sureties: when liable on receiver's bond. 234

RELIGIOUS ASSOCIATIONS.

Church property: determination of rights in: schism. 492, 503
 Creed, questions of: to be determined by church tribunal. 492

REMAINDERS.

See *Future Estates*.

REPLEVIN.

Bankruptcy, petition in: effect on levy in state court. 661
Custodia legis: replevined property. 325
 Plaintiff's possession of replevined property and liability to second replevin by third party with adverse claim. 325

RESCISSION.

Elements necessary for equitable relief. 123
 Laches as defense. 123
Status quo, restoration of: 124
 Necessity of. 124, 125
 Extent of. 124
 Insurance contracts. 123

RESTRAINT ON ALIENATION.

See also *Perpetuities*.
 Power in trust. 329

SALES.

See also *Statute of Frauds*.
 Bill of lading: delivery of, as delivery of goods: mistake as to location of goods. 416

Conditional sales:

Under Sale of Goods Act. 87
 Delivery, necessity of, to transfer title. 86
 Documents of title: delivery of, to pass title to property. 416
 Margin transactions:
 Regarded as sales in Massachusetts. 489

See also *Pledges*.

Market Overt, sales in: 375
 Exception to rule: prosecution of thief by true owner. 381
 Origin of. 375
 Sales of Goods Act.: 82
 American and English drafts compared. 82
 Conditional sales. 87
 Documents of title, defined. 89
 Rescission for breach of warranty. 84
 Transfer of title without delivery. 86
 Warranties. 83
 Title, transfer of:
 By documents of title. 416
 By intention. 86
 Separation from uniform mass: whether necessary to pass title. 512

Warehouse Receipts:

Delivery of, to pass title. 416
 Rights of buyer, when property is not in possession of warehouseman. 416

Warranty:

Express statement of implied warranty. 669
 New York doctrine of warranty. 669
 Sale of Goods Act, warranties under. 83
 Scotch law. 83
 Rescission for fraud. 84

SHELLEY'S CASE, RULE IN.

Origin. 573
 Personalty, applied to:
 Early history. 573
 Operation of rule. 574

SPECIFIC PERFORMANCE.

Compensation, specific performance with: 309, 322
 Deficiency must be measurable in money. 309, 311
 Material deficiency. 309, 311
 Vendee, suit by: when recovery allowed: basis of relief. 310
 Vendor, suit by: requisites. 309
 Continuous acts: when decree issues. 670

Hardship, effect of, when subsequent to formation of contract.	322	Registration of Titles:	
Laches.	322	General legislation.	447
Monopoly, whether contract tending to, will be enforced.	586	New York, Laws 1898, ch.	444.
Mutuality:		Sale of Goods Act.	82
Test of.	229	Sherman Anti-Monopoly Act:	452
Specific performance with compensation.	310	See also <i>Interstate Commerce</i> .	
Profession, specific performance of contract restraining practice of.	586	STATUTE OF FRAUDS.	
Public, interests of, protected.	586	Acceptance and receipt: goods sold in vendee's possession.	59
Will, contract to make.	142	Payment of debt of another: promise to pay, whether within statute.	236
		Vendee in possession: intention to accept, how manifested.	59
STATES.		SUBROGATION.	
Suits against, see <i>Constitutional Law</i> .		Guarantor: right of subrogation does not exist on part payment.	147
STATUTES.		Right of subrogation: when arises.	147
See also <i>Bankruptcy, Copyright, Corporations, Indians, Limitation of Actions, Statute of Frauds</i> .		SUPPORT, RIGHT OF.	
Bankruptcy Acts, see <i>Bankruptcy</i> .		Highways: improvements: lateral support of.	593
Bill: when bill becomes law: reconsideration by governor after approval.	51	Lateral support: extent of right.	592
Carriers: statutes prohibiting limitation of liability.	507	Subjacent support: subsidence of soil: damages.	415
Contingent Remainder Act, 1845.	257	SURETYSHIP.	
Erdmann Act, 1898, sec. 10.	301	Appeal and dissolution bonds: release of one surety: effect on others.	417
Game laws.	47	Payment of another's debts: promise to pay, distinguished from indemnity.	236
Gloucester, Statute of.	433	Release of one surety: effect on other sureties: appeal and dissolution bonds.	417
Interstate Commerce Acts.	452	TAXATION.	
See also <i>Interstate Commerce</i> .		Exemptions: strictly construed.	512
Joint-stock companies: English legislation.	337, 461	Expenditures for primary elections.	513
Legislation, methods and conditions of.	157	Intangible property: how valued.	328
Marlbridge, Statute of.	432	Interstate Commerce: tax on gross receipts of interstate railroad invalid.	665
New York Code Civ. Proc.:		Public purpose: what is a public purpose.	513
§ 829.	650, 663	Transfer Tax:	
§ 834.	141	Non-resident decedent's property: in New York:	399, 417
See also <i>Pleading and Practice</i> .		Distribution to avoid statute, not allowed.	399
New York Mechanics' Liens Law.	416	Testacy and intestacy, no ground of distinction.	400
New York Railroad Law, §§ 39, 104.	146	Theory of.	398
New York Real Property Law:		Waterworks: exempt as public property.	414
Accumulations:			
1 R. S. ch. 726 § 40, ch. 773, § 2 Laws 1896, ch. 547, § 53, Laws 1897 ch. 417, § 2.	394		
1 R. S. ch. 726, §§ 37, 38, ch. 773, § 3, Laws 1896, ch. 547, § 51, Laws of 1897, ch. 417, § 4.	298		
Executory devises: 3 R. S. 207, §§ 32, 33.	397		
Powers: §§ 129-133.	653, 669		
Recording Acts.	327		

TENANCY IN COMMON.

- Disability of one co-tenant: effect on acquisition of prescriptive rights. 511
Easements: valid against tenancy in common: when. 511

TORTS.

- See also *Conspiracy, Death by Wrongful Act, Interference with Contractual Relations, Libel and Slander, Negligence, Proximate Cause, Unfair Competition.*
Contract, breach of: when actionable as a tort. 666
Dangerous instrumentality: master's liability because of ownership. 231
Duty to care for sick or helpless persons: when duty arises. 229
Gratuitous advice: foundation for tort action. 409
Infants, unborn: right when born to sue for injury sustained *en ventre sa mere.* 670
Insults, malicious: no ground for action. 147
Joint tortfeasors: contribution. 499
Licensees, expulsion of: where licensee is sick. 513
Municipal corporations: liability for torts. 666
Non-contractual offer: liability from injury resulting: information given by newspaper. 409
Sickness: duty to care: effect on other existing duties. 513
Trespasser, expulsion of: when trespasser is sick. 513

TRADEMARKS AND NAMES.

- Charitable corporations: right to protection against unfair competition. 514
Fraud on public a bar to equitable relief. 236
Requirements for valid trademark. 236
Unfair competition: extension of doctrine. 514

TRESPASS.

- Dogs: when trespassing dogs may be killed. 147
Reasonable user: no application to trespass. 56

TRUSTS.

- See also *Accumulations, Perpetuities, Restraints on Alienation.*
Banks: depositary of trust funds; liability to *cestui.* 54

- Charitable trusts: partial invalidity: effect on residue. 671
Confidential relation: sufficiency to raise a trust. 237
Constructive trust on breach of oral agreement. 237
Depositary of trust funds: liability to *cestui.* 54
Devise in evasion of statutes: validity. 593
Discretionary power of sale: nature of power: power of substituted trustee. 417
Oral agreement, breach of: constructive trust. 237
Power in trust: suspension of power of alienation. 329
Secret trusts: devise in evasion of statute. 593
Separable trusts: when construed separable. 671
Simple trusts. 671
Simple trusts: elements of. 671
Spendthrift trusts. 672
Termination by *cestui.* 671
Trustee: power of, to lease for term beyond life estate: 129, 148
Term certain to exceed life estate. 130
Reasonable term: surrender of unexpired term by lessee with compensation from *cestui's* estate. 130
Uncertainty: partial invalidity rendering trust void for. 671

USURY.

- State bank protected when *bona fide* holder of usurious instrument. 235
Stocks: recovery of excessive interest by broker for stocks carried on margin. 281

VENDOR AND PURCHASER.

- See also *Specific Performance.*
Vendee's lien:
Nature. 571
Survival of, after rescission of contract of sale. 571, 586
Vendor's lien:
Assignee of vendor, enforcement by: lien reserved in deed. 234
Charge upon entire fee, when. 234
Nature and basis. 571

WARRANTY.

- See *Sales.*

WASTE.

- Act of God: no liability for. 626

Curtesy, tenant by the: liability.	430	Real Property, devise of: modern doctrine.	37, 60
Gloucester, Statute of.	433	Devises over after estate with proviso compelling alienation.	397
History of:		Discretionary power of sale: intention of testator as affecting powers of substituted trustee.	417
At common law.	425	Evasion of statute, devise in: validity.	593
Modern English view.	624	Gifts over: validity dependent on whether gifts are executory devises after a fee, or remainders after a life estate.	397
Lessee for years: liability.	431	Implication, estates by.	148
Marlbridge, Statute of.	432	Lapse: effect of, upon subsequent limitations.	490
Permissive Waste.	425, 624	Power of disposal free from limitation over: power with a fee and devise over, distinguished from power with life estate and remainder over.	397
Voluntary waste.	425, 624	Remainders, gifts to be construed as, if can take effect as such: recent aberrations from rule in England.	646, 669
WATERS AND WATER-COURSES.		Repugnancy of gift over after absolute estate with power to dispose free from limitation.	397
Appropriations: interstate streams.	672	Undue influence: character of beneficiary: evidence of, inadmissible.	413
Navigable waters:		WITNESSES.	
Congress, power of, under Admiralty and Interstate Commerce Clauses.	44	Privilege: waiver of, what constitutes: extent of waiver.	141
Obstructions: constructive notice of.	414		
Percolating waters:			
New York doctrine.	237		
Right to pump.	237		
Pollution of percolating waters.	329		
Water, property right in.	148		
WILLS.			
Alternative gifts.	647		
Conditional limitations after failure of prior gift: when condition deemed performed.	490, 514		
"During widowhood," construed in a devise.	330		
"Dying without issue," construed: Personalty, gifts of: confused with Rule in Shelley's case.	576		

BOOK REVIEWS.

	PAGE.
BARCLAY: Problems of International Practice and Diplomacy.....	62
BENTWICH: The Law of Private Property in War with a Chapter on Conquest	155
BIGELOW: The Law of Torts.....	153
BORLAND: Wills and the Administration of the Estates of Deceased Persons	422
CARTER: Law: Its origin, Growth and Function.....	515
CIPPERLY: Labor Laws and Decisions of the State of New York.....	521
CLARK: Handbook of the Law of Private Corporations. Second Edi- tion. By <i>Francis B. Tiffany</i>	238
COOKE: The Commerce Clause of the Federal Constitution.....	595
GIBSON: A Treatise on Suits in Chancery.....	63
GULSON: The Philosophy of Proof.....	331
HINCKLEY: American Consular Jurisdiction in the Orient.....	240
KENNEDY: Trial Evidence	597
LORING: A Trustee's Handbook. Third Edition.....	424
McKELVEY: Handbook of the Law of Evidence. Second Edition.....	596
MOORE: Act of State in English Law.....	242
MOUNT: History of an Action for the Partition of Real Property in New York.....	239
MUNRO: The Seigneurial System in Canada.....	336
NORTON: "Short Sales" of Securities through a Stockbroker.....	423
PIERCE: Federal Usurpation	519
POLLOCK: The Law of Torts. Eighth Edition.....	674
POMEROY: A Treatise on Equity Jurisprudence. Students' Edition. By <i>John Norton Pomeroy, Jr.</i>	517
POWELL: Manual of Corporate Taxation in New York.....	522
REINSCH: American Legislatures and Legislative Methods.....	150
ROOD: A Digest of Important Cases on the Law of Crimes.....	64
SHAMEL: Mining, Mineral and Geological Law.....	675
SHARSWOOD: An Essay on Professional Ethics.....	335
STIMSON: The Law of the Federal and State Constitution of the United States	594
The American Constitution.....	420
THAYER: Legal Essays.....	419
VAN DYNE: A Treatise on the Law of Naturalization of the United States	333
VARIOUS AUTHORS: Select Essays on Anglo-American Legal History. Volume One	61
WIGMORE: A Supplement to a Treatise on the System of Evidence....	423

TABLE OF RECENT CASES.

Numbers in heavy-faced type refer to NOTES, plain type to RECENT DECISIONS.

	PAGE		PAGE
Adair <i>v.</i> U. S.	301, 317	Cochrane <i>v.</i> Alexandre.	298, 329
Adler <i>v.</i> Galbraith, Bacon & Co.	136	Cochran <i>v.</i> Cochran.	585
Akers <i>v.</i> Mutual Life Ins. Co.	511	Coe <i>v.</i> Patterson.	235
American Loan & Trust Co. <i>v.</i> Grand Rivers Co.	658, 661	Colby <i>v.</i> Equitable Trust Co. 313 , 321	
American Nat. Bank <i>v.</i> Fidelity, etc., Co.	54	Coleman <i>v.</i> Reynolds.	325
Am. Soda Fount. Co. <i>v.</i> Stolzen- bach.	403, 411	Colgate <i>v.</i> U. S. Leather Co.	52
Am. Tobacco Co. <i>v.</i> Werckmeis- ter.	227	Commercial Milling Co. <i>v.</i> Wes- tern Union.	507
Amsinck <i>v.</i> Rogers.	135, 137	Commonwealth <i>v.</i> City of Coving- ton.	414
Bacon <i>v.</i> Pullman Co.	656, 667	Confer's Estate.	585
Baldwin <i>v.</i> Brown.	309, 323	Conner <i>v.</i> N. Y., etc., Ry. Co. 311 , 328	
Ballantine <i>v.</i> Ballantine.	671	Cotnam <i>v.</i> Wisdom.	58
Barber <i>v.</i> Andrews.	512	Cunningham <i>v.</i> First Nat'l Bank.	404, 415
Barrett <i>v.</i> Wagner.	587	Curtice <i>v.</i> Dixon.	412
Barrett <i>v.</i> Towne.	226	Dambmann <i>v.</i> Met. St. Ry. Co.	141
Barson <i>v.</i> Mulligan.	486, 507	Davidson <i>v.</i> Hine.	507
Bassing <i>v.</i> Cady.	502	Day <i>v.</i> McPhee.	417
Beckman <i>v.</i> Meandille.	136	De Le Bere <i>v.</i> Pearson, Limited.	409
Beckner <i>v.</i> Commonwealth.	49	Diamond State Iron Co. <i>v.</i> Hus- bands.	222, 227
Bently <i>v.</i> Fidelity & Deposit Co.	500	Dickinson <i>v.</i> United States. 577 , 584	
Beulieu <i>v.</i> Gt. Northern Ry. Co.	326	Dodd <i>v.</i> Pitts. Ry. Co.	321
Bitterman <i>v.</i> L. & N. R. R. Co.	225	Duncan <i>v.</i> Nassau Electric R. Co.	575, 587
Bosley <i>v.</i> Monahan.	60	Dunn <i>v.</i> W. U. Tel. Co.	147
Bradley Mfg. Co. <i>v.</i> Chicago, etc., Trust Co.	141	Earle <i>v.</i> Whiting.	125, 145
Bremer <i>v.</i> Manhattan Ry. Co. 401 , 415		Ede, William, Co. <i>v.</i> Heywood.	592
Burdett <i>v.</i> Greer.	481, 509	Edmunds <i>v.</i> Ill. Cent. R. R. Co.	320
Burghen <i>v.</i> Erie R. Co.	510	Einstein <i>v.</i> Holladay-Klotz Co.	662
Burton <i>v.</i> Haden.	484, 505	Elterman <i>v.</i> Hyman.	571, 586
Cefola <i>v.</i> Siegel Cooper Co. 579 , 587		<i>Ex parte</i> Hollman.	318
Cervantes <i>v.</i> State.	229	<i>Ex parte</i> Schlaffer.	52
Chambers <i>v.</i> Baltimore & Ohio R. R.	132, 137	<i>Ex parte</i> Young.	502
Chicago, R. I. & Pac. Ry. Co. <i>v.</i> Ludwig.	137	Evans <i>v.</i> N. Y., etc., S. S. Co. 648 , 661	
Chicago, etc., Ry. Co. <i>v.</i> Swanger	506	Farmers' Loan & Trust Co. <i>v.</i> Kip.	652, 669
City of Bessemer <i>v.</i> Bessemer Waterworks Co.	39, 51	Fauntleroy <i>v.</i> Lum.	569, 584
City of Cedartown <i>v.</i> Brooks.	233	Faxon <i>v.</i> Baldwin.	211, 229
City of Chicago <i>v.</i> Illinois Steel Co.	143	Fifer <i>v.</i> Allen.	37, 60
City of Georgetown <i>v.</i> Hambrick,	144	Fifth Ave. Coach Co. <i>v.</i> City of New York.	226
City of Rochester <i>v.</i> Rochester & Lake Ontario Water Co.	148	Fifth Ave. Coach Co. <i>v.</i> City of New York.	228
City of Sanford <i>v.</i> Orange County	414	First Nat'l Bank <i>v.</i> Buttery.	667
Clark <i>v.</i> Brown.	402, 503	Flynn <i>v.</i> White.	325
Cleveland, etc., Ry. Co. <i>v.</i> Clevel- and Steamship Co.	499	Flood <i>v.</i> Ryan.	593
		Fordeur <i>v.</i> Schmidt.	49
		Fossett <i>v.</i> R. I. Lumber & Mfg. Co.	235
		Fowler <i>v.</i> Wick.	662
		Fox <i>v.</i> Murdock.	55

TABLE OF RECENT CASES.

XXV

	PAGE		PAGE
Free Holders <i>v.</i> Kaiser.....	508	Littler <i>v.</i> Dickman.....	330
Freeman <i>v.</i> Trummer.....	148	Littler <i>v.</i> Diemann.....	397, 418
French <i>v.</i> Vanatta.....	208, 233	Livingston <i>v.</i> Anderson.....	416
Galveston, etc., R. R. Co. <i>v.</i> Texas	665	Loewe <i>v.</i> Lawlor.....	413
Geiger <i>v.</i> Ryan.....	503	Logan & Bryan <i>v.</i> Postal Tel. & Cable Co.....	412
General Oil Co. <i>v.</i> Crain.....	510	Long <i>v.</i> Louisville & N. Ry. Co.....	329
Gitler <i>v.</i> Russian Co.....	409	Lyons <i>v.</i> Bank of Discount.....	50
Graff <i>v.</i> Lemp Brewing Co.....	666	Matter of Burnham.....	500
Griffin <i>v.</i> Ernst.....	416	Matter of Disney.....	148
Grocers' Journal Co. <i>v.</i> Midland Pub. Co.....	236	Matter of Ramsdill.....	417
Guy <i>v.</i> Donald.....	407	Matter of Rudnick & Co.....	661
Hall <i>v.</i> Parsons.....	591	Matter of Rutten.....	307, 324
Hart <i>v.</i> Clark.....	582	Marling <i>v.</i> Metropolitan Ins. Co.....	665
Hastings Corporation.....	410	Mash <i>v.</i> Bloom.....	327
Hathorn <i>v.</i> Dr. Strong's Saratoga Springs Sanitarium.....	237	Mayor, etc., of Dudley <i>v.</i> Dudley.....	217, 234
Heath Dry Gas Co. <i>v.</i> Hurd.....	669	McBride <i>v.</i> Noble.....	51
Heflin <i>v.</i> Heflin.....	322	McClure's Ex'r <i>v.</i> King.....	146
Herzig <i>v.</i> Blumenkrohn.....	142	McCoy <i>v.</i> State.....	139
Hibbs <i>v.</i> Brown.....	215, 233	McKannay <i>v.</i> Horton.....	49
Hilt <i>v.</i> Simpson.....	237	McKnight <i>v.</i> Parsons.....	232
Hoffman <i>v.</i> Dickson.....	121, 145	McLaurin <i>v.</i> Jefferson School P. P.....	140
Hollidge <i>v.</i> Duncan.....	589	Meadows <i>v.</i> Gulf, etc., Co.....	414
Holstein <i>v.</i> Philips.....	230	Meyer <i>v.</i> Weir.....	501
Hoye <i>v.</i> Penn. R. Co.....	407	Modern Woodmen <i>v.</i> Neeley.....	587
Huell-Mantel <i>v.</i> Tweddle.....	233	Molloy <i>v.</i> Starin.....	224
<i>In re</i> Bartenshaw.....	138	Moore <i>v.</i> Berlin Mills Co.....	56
<i>In re</i> Coleman's Depositories... ..	141	Moore <i>v.</i> Mutual Reserve Fund Life Ass'n.....	138
<i>In re</i> Edwards.....	219, 224	Morgan <i>v.</i> Mutual B. L. Ins. Co.....	58
<i>In re</i> Hanlin's Estate.....	145	Morreau <i>v.</i> Gas Fixture Co.....	590
<i>In re</i> Hubbell Trust.....	129, 148	Morton <i>v.</i> Sands Trust Co.....	329
<i>In re</i> Kingsley.....	664	Muller <i>v.</i> Manhattan Ry. Co.....	415
<i>In re</i> Robinson.....	583	National Phonograph Co. <i>v.</i> The Edison-Bell Consolidated Phonograph Co.....	496, 513
<i>In re</i> Roger's Will.....	127, 141	Nelson <i>v.</i> Peterson.....	144
<i>In re</i> Quartz Gold Mining Co.....	319	Nelson <i>v.</i> Blinn.....	501
<i>In re</i> Ward.....	583	Newton <i>v.</i> Gage.....	57
Illinois Central Ry. Co. <i>v.</i> Elliott.	664	Old Dominion Copper, etc., Co. <i>v.</i> Lewisohn.....	567, 584
Irwin <i>v.</i> Ins. Co.....	506	Old Dominion S. S. Co. <i>v.</i> Gilmore	136
Jackson <i>v.</i> Portland Cement Co..	226	O'Hara <i>v.</i> Laclede Gas Light Co.	666
Jennings <i>v.</i> Lentz.....	327	Paltey <i>v.</i> Eagan.....	143
Jetton <i>v.</i> University of the South.	512	Pendley <i>v.</i> Powers.....	57
Jones <i>v.</i> Reeves.....	573, 590	Peters <i>v.</i> Tallchief.....	145
Krebs <i>v.</i> Security Trust and Life Ins. Co.....	230	Pennsylvania, etc., Co. <i>v.</i> New York City Ry. Co.....	327
Lanning <i>v.</i> Johnson.....	582	Penn. R. R. Co. <i>v.</i> Phila. Co.....	501
Lawrence <i>v.</i> Rutland R. Co.....	137	People <i>v.</i> Blake.....	52
Lee, W., and Anderson <i>v.</i> L. & N. Ry. Co.....	55	People <i>v.</i> Beardsley.....	228
Legal Aid Society <i>v.</i> Wage Earners' Legal Aid Ass'n.....	514	People <i>v.</i> Fabian.....	584
Leslie <i>v.</i> William Mann Co.....	324	People <i>v.</i> New York Building Loan Banking Co.....	46, 59
Lewin <i>v.</i> The Koerner Benevolent Ass'n.....	494, 506	People <i>v.</i> Robertson.....	228
Lightfoot <i>v.</i> Murphy.....	139		

	PAGE		PAGE
People <i>v.</i> VanGaasbeck.....	221	Thompson <i>v.</i> Nat'l Bank.....	668
Philip <i>v.</i> Pennell.....	52	Thompson <i>v.</i> Seaboard Airline R.R. Co.....	667
Phoenix Nat'l Bank <i>v.</i> Water- bury	305, 317	The Standard Oil Co. of Ind. <i>v.</i> United States	588
Pittsburg, etc., Ry. Co. <i>v.</i> War- rum	317	Telephone Co. <i>v.</i> City of Hick- man	670
Plunkett <i>v.</i> Clearwater Bleachery, etc., Co	663	Title Guarantee & Trust Co. <i>v.</i> Haven	654, 669
Poole <i>v.</i> New England Life Ins. Co.....	411	Townsend's Assignee <i>v.</i> Town- send	224
Powell <i>v.</i> Hayes	51	Trustees, etc., <i>v.</i> Saratoga Gas Co.....	317
Pratt <i>v.</i> State.....	663	Trustees, etc., <i>v.</i> Saratoga Gas Co.....	318
Prescott <i>v.</i> Robinson.....	670	Tucker <i>v.</i> Burt	513
Pullman Co. <i>v.</i> Vanderhoven....	326	Tucker <i>v.</i> Tucker	234
Raymond <i>v.</i> State.....	505	U. S. <i>ex rel.</i> Pitcairn Coal Co. <i>v.</i> B. & O. R. R. Co.....	592
Reynolds <i>v.</i> Davis	588	United States <i>v.</i> Banister Realty Co.....	44, 51
Richardson <i>v.</i> Shaw	488, 510	United Merchants Realty & Im- provement Co. <i>v.</i> Roth	323
Richmond Steel Pike, etc., Co. <i>v.</i> Chesterfield Coal Co.....	661	U. S. Trust Co. of New York <i>v.</i> Hogencamp	490, 514
Russell <i>v.</i> Norton.....	668	Van Leer <i>v.</i> Van Leer	672
Savage <i>v.</i> Hoffman	589	Van Syckel <i>v.</i> Johnson.....	671
Schlessinger <i>v.</i> Lehmaier	235	Von Theodorovich <i>v.</i> Franz Josef Beneficial Ass'n.....	53
Semmes <i>v.</i> Needles	412	Vulcan Detinning Co. <i>v.</i> Ander- son Can Co.....	40, 54
Schwerdt <i>v.</i> Schwerdt	665	Wadick <i>v.</i> Mace.....	229
Sheffield <i>et al.</i> <i>v.</i> International Harvesting Machine Co.....	324	Wallace <i>v.</i> Wallace.....	323
Silkman Lumber Co. <i>v.</i> Hunholz ..	59	Warnack <i>v.</i> State.....	411
Silver <i>v.</i> Board of Com'rs.....	225	Warren Bros. Co. <i>v.</i> New York..	231
Simons <i>v.</i> City of Eugene.....	590	Watford <i>v.</i> Lumber Co.....	50
Sinkovitz <i>v.</i> Applebaum	236	West Leigh, etc., Co. <i>v.</i> Tunncliffe	415
Sizer & Co. <i>v.</i> Melton & Sons	181, 140	White <i>v.</i> Summers.....	646, 669
Smith <i>v.</i> Floyd	417	White-Smith Music Pub. Co. <i>v.</i> Apollo Co.....	410
Squire <i>v.</i> Princeton Lighting Co.	213, 227	Wilbur <i>v.</i> Gillespie.....	650, 663
State <i>v.</i> Felton	513	Wilcox <i>v.</i> The City of Rochester..	232
State <i>v.</i> Fourteenth St. Store....	408	Wilson <i>v.</i> International Bank & Cooper.....	509
State <i>v.</i> Nielson.....	583	Wineland <i>v.</i> Knights of Macca- bees	138
State <i>v.</i> Pressler	321	Wisner <i>v.</i> Bank.....	508
State <i>v.</i> Wiggins Ferry Co.....	324	Wold <i>v.</i> J. B. Colt Co.....	320
St. John <i>v.</i> Andrews Institute for Girls	394, 417	Wood <i>v.</i> Sloman.....	319
St. John <i>v.</i> The Andrews Insti- tute	591	Zabriskie <i>v.</i> City of New York...	316
St. Louis Ry. <i>v.</i> Thompson.....	513	Zanotti <i>v.</i> Bolles.....	147
Sterling <i>v.</i> Park	59		
Stevens <i>v.</i> City of Port Huron...	56		
Stewart <i>v.</i> Cary Lumber Co.....	231		
Strong <i>v.</i> Supreme Lodge K. P..	142		
Swartley <i>v.</i> Oak Leaf Creamery ..	203, 321		
Taggart <i>v.</i> Manhattan Ry. Co....	511		
Taylor <i>v.</i> Hulett.....	672		
Thomas <i>v.</i> Borden.....	586		